

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

DANIEL NOTESTEIN, BLOCKTRADES
INTERNATIONAL, LTD., ANDREW
CHANEY, SZYMON LAPINSKI, ADAM
DODSON, ELMER LIN, DANIEL HENSLEY,
MICHAEL WOLF, MATHIEU GAGNON, and
MARTIN LEES,

Plaintiffs/Counter-
Defendants,

v.

Civil Action No. 7:20CV00342

BITTREX, INC.,

Defendant/Counter-
Plaintiff

J. DOES, and

Defendants

STEEMIT, INC.

Third-Party
Defendant

**DECLARATION OF JULIAN YAP IN SUPPORT OF
BITTREX, INC.'S MOTION TO DEPOSIT DISPUTED CRYPTOCURRENCY INTO
THE COURT REGISTRY**

I, Julian Yap, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am over the age of eighteen, and I submit this declaration in support of Bittrex, Inc.'s Motion to Deposit Disputed Cryptocurrency into the Court Registry. I have personal knowledge of each fact stated in this declaration and, if called as a witness, I could and would competently and truthfully testify thereto.

2. I am a Senior Blockchain Engineer at Bittrex, Inc. ("Bittrex"). I have over 18 years of professional IT experience and hold a bachelor's degree in Business Information Systems from Monash University in Melbourne, Australia. I am well versed in Bitcoin and blockchain related technologies having been involved with the technology and industry since

2013. I have worked with Bittrex on a consultant basis since 2014 and joined as one of their first full-time employees in July 2017.

3. A blockchain is a form of a digital ledger maintained by a distributed network of computers, rather than a single central party. Participants in the network—called “nodes”—broadcast transactions to the network and the nodes validate the transactions. Periodically, the computers on the network aggregate valid transactions into a “block” (i.e. a group of transactions) and write the block to the ledger. Through the use of cryptography, each block relates back to the previous block forming an interconnected chain (hence, the term “blockchain”). The end result is that data written to the blockchain is (practically) immutable—i.e. it cannot be deleted.

4. Cryptocurrencies—also known as “digital currencies” or “virtual currencies”—are digital assets that often implement blockchain technology. There are many blockchain-based cryptocurrencies currently in existence. Some cryptocurrencies—such as Bitcoin—are designed as general-purpose mediums-of-exchange, while others are designed for use within a specific ecosystem or platform.

5. Despite the differences in purposes and technical design, each type of blockchain-based cryptocurrency shares similarities. First, these cryptocurrencies do not exist in any physical form. Second, individual coin ownership records are stored on the blockchain, which records the creation of units of each cryptocurrency and tracks their transfer.

6. Steem and Steem Backed Dollars, the cryptocurrencies at issue in this case, use blockchain technology.

7. Though each cryptocurrency’s blockchain tracks the ownership of all existing cryptocurrency, it does not track the ownership using the names of individual users. Instead, blockchains generally use digital “addresses.” Each cryptocurrency user has one or more digital “addresses” that are used to transact in cryptocurrency. While in many blockchains each transaction associated with a particular address is public and auditable, the blockchain does not record the individual or entity that control each address.

8. Unlike traditional banks, where each customer has a bank account and is identified as the owner, control of cryptocurrency is attested to primarily through control of cryptographic “keys.” The most important cryptographic key is the “private key.” A private key is a long string of alpha-numeric text that functions similarly to a password for a conventional bank account. Without access to the applicable private key, cryptocurrency cannot be transferred.

9. A cryptocurrency wallet is a device, program, service or physical medium, comparable to a bank account, that stores the private keys used to transfer cryptocurrencies like Steem or Steem Backed Dollars. Bittrex maintains a Steem wallet on the Steem blockchain which serves as a holding account for all of the Steem and Steem Backed Dollars held on Bittrex’s exchange by Bittrex customers. A Steem wallet is akin to a digital “address” where Steem and Steem Backed Dollars can be sent or received.

10. Founded in 2014, Bittrex is a U.S.-based cryptocurrency exchange. A cryptocurrency exchange business allows customers to trade cryptocurrencies for other assets, such as conventional fiat money or other digital currencies. Bittrex is headquartered in Washington State. Bittrex is one of the largest U.S.-based cryptocurrency exchanges.

11. Bittrex was founded by three cybersecurity professionals. As a result, Bittrex’s wallet infrastructure has been designed with security in mind.

12. To use Bittrex, customers create a Bittrex account and undergo identity verification. Once the customer has created their account and had their identity verified, customers send cryptocurrency to a Bittrex-controlled deposit address (i.e. one in which Bittrex controls the address’s private keys). If the deposit is successful, Bittrex credits the customer’s account with the appropriate amount of cryptocurrency. The customer can use that balance to trade the cryptocurrency for another type of cryptocurrency or, in certain markets, fiat currency. Customers can also withdraw and transfer cryptocurrency from their Bittrex account to external wallet addresses.

13. Customers generally access their account by inputting their email address and password on Bittrex’s website, available at <https://bittrex.com>, or the Bittrex mobile application.

14. To mitigate the risk of unauthorized account access if customers lose their login credentials, Bittrex has implemented a number of security measures. First, Bittrex requires customers to verify certain actions before they can access their account. For instance, if Bittrex detects that the customer is attempting to login from an unknown IP address (i.e. one not previously associated with the customer's account), Bittrex sends the customer an email that contains a verification link. Bittrex blocks the unknown IP address from accessing the customer's account until the verification link in the email is clicked. Second, Bittrex allows customers to create a list of approved IP addresses, thereby blocking non-approved IP addresses from trading or withdrawing cryptocurrencies in the account. Third, Bittrex offers app-based two-factor authentication, which, if enabled, requires the customer to input a rotating code generated by a third-party application to gain access to the account, in addition to supplying the email address and password associated with the account.

15. Steem and Steem Backed Dollars are two of the many cryptocurrencies traded on Bittrex's exchange.

16. I understand that Steemit is a blockchain-based blogging and social media platform. I also understand that Steemit users are rewarded with the cryptocurrency Steem or and/or Steem Backed Dollars for publishing and curating content.

17. My understanding, based on my knowledge of the cryptocurrency industry, is that in early 2020, the TRON Foundation and Steemit, Inc. engaged in a transaction by which the TRON Foundation gained control of the Steemit social media and blogging platform. The transaction caused various conflicts amongst holders of Steem-related cryptocurrency. In May 2020, these conflicts culminated in a "hard fork," i.e., a change in the rules governing the Steem "blockchain." In the cryptocurrency community, the "hard fork" was considered contentious, as it transferred the Steem and Steem Backed Dollars held by certain Steem accounts to a Steem account named "community321." I and others at Bittrex were generally aware of this conflict, but we had no involvement in the conflict itself.

18. I further understand that on May 20, 2020, 23,627,501 Steem and 427 Steem Backed Dollars were transferred from the “community321” account into Bittrex’s Steem wallet (essentially, a holding account for all of Steem and Steem Backed Dollars held on Bittrex’s exchange) by an unknown person purporting to be a “white knight hacker.” The unknown “white knight hacker” purported to instruct Bittrex to return the cryptocurrency to their “original owners,” but did not provide an identifying memorandum by which Bittrex could link the funds to a particular Bittrex account.

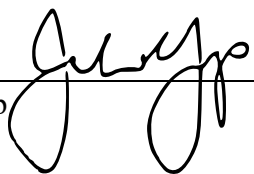
19. I understand that Plaintiffs in this lawsuit claim to be the owners of some of the Steem and Steem Backed Dollars transferred from the “community321” account into Bittrex’s Steem wallet (the “Disputed Steem”). Bittrex does not assert any claim to the Disputed Steem. Bittrex is ready and willing to give the Disputed Steem to the person or persons entitled to it, but Bittrex is unable to make a determination as to ownership.

20. Bittrex proposes that it work with the Court to establish a new Bittrex account in the Court’s name, credit the Disputed Steem to the Court’s Bittrex account, and print out the login credentials for the Court. Bittrex will then provide the Bittrex login credentials in a sealed envelope to the Court to place in the Court’s registry. Bittrex will not retain a copy of this information. The Court can then maintain this information in its registry while this dispute is pending. No Plaintiff/Counter-Defendant, John Doe Defendant, Third-Party Defendant, or other interested third party will be able to withdraw the Disputed Steem from the Bittrex account without the proper login credentials.

21. Bittrex is open to alternate solutions acceptable to the Court. For example, Bittrex is open to using a third-party custodian to hold the Disputed Steem while this dispute is pending, if an appropriate custodian can be found. Bittrex could also create an account on Steemit, direct the Disputed Steem to that address, and provide the “private key” associated with that account to the Court in a sealed envelope to keep in its registry.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 4th day of August, 2020 at Ocean Shores, Washington.

By: _____
Julian Yap